

Town and County Planning Act 1990

Appeal by Mr Gary Stephen Cullen, Treville Properties Ltd

Land at 184 Taxal Edge, Macclesfield Road, Whaley Bridge, Derbyshire,
SK23 7DR

Appeal ref: APP/H1033/C/22/3297854 and Linked Case
APP/H1033/W/21/3272745

Response to Appellant Statement of Case
on behalf of High Peak Borough Council

26 July 2022

The Council's response to the appellant's statement of case dated 29 June 2022 is as follows:

1. References to paragraph numbering (save as indicated otherwise) relates to the Appellant's statement of case dated 29 June 2022.
2. Comments are made in addition to the Council's statement of case and the Council has endeavoured not to be repetitive in its response.

Para 1.8 – to the extent relevant to this enforcement notice appeal, evidence already in the public domain was brought to the hearing relating to the proposed development of Taxal Edge showing plans of the external appearance of the property that was considered to be of assistance in that hearing. The appellant in relation to the Taxal Edge appeal was already aware of the planning officer's concerns relating to alterations that had been made, only later was the enforcement team involved. The plans related to planning application HPK/0002/5081 – Additional Car Parking Provision Adjacent To Main Driveway. Approved 06/04/1987. As far as officers are aware they are the only plans of the external elevations the Council has and confirms the visual external appearance that can be seen in later photographs. These plans are relevant to the enforcement appeal because the approved conversion of the building given in relation to planning permission reference HPK/2009/0689 did not approve any alterations to the exterior of the building.

3. Para 1.9 – the Council accepts the principle of residential use of the dwelling. The council's views regarding planning permission reference HPK/2009/0689 are set out in paragraph 5.6 of the Council's statement of case. The council has not seen any evidence of occupation of the building prior to its purchase by the current owner as asserted in para 1.5.
4. Para 1.10 – the Appellant is mistaken, an internal investigation took place prior to service of the enforcement notice. A site visit took place in May 2022 to try to determine what works had taken place in the main building at Taxal Edge the subject of the appeal conjoined with this enforcement appeal. The classroom building was viewed at the same time.
5. Para 1.13 – the Council are entitled to take enforcement action at any time prior to the expiry of 4 years following substantial completion of works requiring consent and the subject of the enforcement notice. That is the risk that any developer takes by carrying out works without planning consent. In this case the appellant is a property developer who would be expected to understand what works require consent and what do not. Here the appellant seeks to rely in terms of the context for the proposed appeal development at

Taxal Edge on a building to which unauthorised works have taken place and so service of the enforcement notice has had wider ramifications.

6. Ordinarily the Council would dialogue with the owner prior to service of a notice, however the Council was already in possession of a large quantity of information produced in relation to the proposed development of the wider Taxal Edge site; it was also aware that the period for taking enforcement action was close, time was of the essence. The 2019 reference number is an IT issue yet to be resolved and irrelevant to the determination of this appeal.
7. While the case officer dealing with the planning application in relation to Taxal Edge had concerns regarding the lawfulness of the works to the classroom block, as referenced in her committee reports, the enforcement team were not involved until after the hearing into that appeal in March 2022.
8. Para 4.4 and 4.5 – The Council disagrees with the Appellant’s statement; the panelling below a window is not part of a window opening since it forms part of the external wall and the new openings have clearly affected the external appearance of the building.
9. Para 4.3, 4.5, 4.7 and 4.8 - The Council welcomes early consideration of any evidence the appellant has to show that either the works were permitted development because of the previous activities of third parties or otherwise or that the enforcement notice was served out of time.
10. The Council has requested early sight of factual evidence to this end but thus far has only received a screen shot of an undated photograph. None of the evidence in the possession of the Council prior to service of the notice or at this time has led it to conclude that the works were lawful, either by way of permitted development rights or through effluxion of time. The earlier the evidence referred to in the statement of case can be submitted and considered, the earlier it can be considered and, if the appellant is correct, potentially lead to the notice being withdrawn.
11. Para 4.14 – once residential use is established then it is accepted that the property will benefit from permitted development rights. It does not necessarily follow that implementation of these rights will lead to development more harmful in design and landscape terms to that currently in situ and there is no evidence that the appellant intends to exercise those rights or if so in what way.
12. It is noted in this respect that raising the height of the roof would not fall under permitted development rights and it is considered that the roof space below the original roof pitch would be unlikely to be high enough to form a habitable

space. The alterations to fenestration would not fall under permitted development rights as the changes that have been made significantly alter the external appearance of the building.

13. Para 4.13 and 4.18 – The Council is in possession of photographs of the building submitted with application HPK/2009/0689 that show the front elevation of the building and show the window cills. The Council does not understand reference to modular windows.

14. Para 4.15 – The Council's view is that the property, prior to the changes made, was a simplistic 60s style building with a low roof line and situated in a well wooded area, screened from many viewpoints. While that design may not accord with modern design aspirations neither does the design of the property as has been altered by the Appellant. Together with the raising of the roof height the current overall design is not only poor, but visually very prominent and has an adverse impact on landscape character